

AMENDMENTS TO HOUSE BILL NO. 1184

Sponsor: REPRESENTATIVE MOUL

Printer's No. 1450

1 Amend Bill, page 1, line 2, by inserting after "Statutes,"
2 in creation and alteration, further providing for definitions,
3 for contiguous areas, for applications, for borough advisory
4 committee, for adjustment of indebtedness, for judicial
5 adjustment, for judicial adjustment award proceedings, for
6 compensation, expenses and costs, for territory located in
7 multiple counties and for bond issues and taxation;

8 Amend Bill, page 1, lines 16 through 18, by striking out all
9 of said lines and inserting

10 Section 1. Section 200 of Title 8 of the Pennsylvania
11 Consolidated Statutes, amended June 5, 2020 (P.L.211, No.28), is
12 amended to read:

13 § 200. Definitions.

14 The following words and phrases when used in this subchapter
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Committee." A borough advisory committee.

18 "Freeholder." A person enjoying a continuous right of
19 ownership and possession of real property for an indeterminate
20 period by fee simple or life estate.

21 ["Township." A township of the first or second class or any
22 home rule township.]

23 "Municipality." A city, incorporated town, township, home
24 rule municipality, optional plan municipality, optional charter
25 municipality or similar general purpose unit of government which
26 may be created or authorized by statute.

27 Section 2. Sections 201, 202, 202.1 and 213 of Title 8 are
28 amended to read:

29 § 201. Contiguous areas.

30 A court of common pleas may incorporate as a borough any
31 contiguous area from one or more [townships] municipalities
32 within the court's jurisdiction having a population of at least
33 500 residents. After having been incorporated as a borough, the
34 area shall be a body corporate and politic and shall have the
35 name decreed by the court.

36 § 202. Applications.

37 (a) Petition.--The following shall apply:

1 (1) The application for incorporation shall be by a
2 petition signed by a majority of the freeholders residing
3 within the limits of the proposed borough and by the
4 freeholders of a majority of the territory within the limits
5 of the proposed borough, if all parts of the proposed borough
6 are in the same [township] municipality.

7 (2) If portions of the proposed borough are in different
8 [townships] municipalities, the petition shall be signed by a
9 majority of the freeholders residing in each of the separate
10 portions and by the freeholders of a majority of the
11 territory in each of the separate portions. The following
12 shall apply:

13 (i) The signatures must be secured within three
14 months immediately preceding the presentation of the
15 signatures to the court.

16 (ii) The petition shall be subscribed by and sworn
17 to by at least one of the signers.

18 (iii) The number of signers required to sign the
19 petition shall be ascertained as of the date the petition
20 was presented to court.

21 (b) (Reserved).

22 (c) (Reserved).

23 (d) (Reserved).

24 (e) Filing and notice.--Upon presentation to the court, a
25 petition shall be filed with the clerk of court, and notice of
26 the petition shall be published under section 109 (relating to
27 publication of notices) once a week for four consecutive weeks
28 immediately following the filing of the petition, during which
29 time exceptions may be filed to the petition by any person
30 interested. The notice shall state when and where the petition
31 was filed and the time during which exceptions may be filed to
32 the petition.

33 (f) Contents of petition.--The petition under subsection (e)
34 shall indicate the name of the proposed borough with a
35 particular description of the boundaries of the borough and be
36 accompanied with a plot of the proposed borough. The following
37 shall apply:

38 (1) If the boundaries of the proposed borough are not
39 the same as an existing [township] municipality, the
40 description shall contain the courses and distances of the
41 boundaries.

42 (2) If the boundaries of the proposed borough are the
43 same as an existing [township] municipality, the description:

44 (i) may contain the courses and distances of the
45 boundaries; and

46 (ii) shall refer to the name and location of the
47 existing [township] municipality.

48 § 202.1. Borough advisory committee.

49 (a) Establishment.--The court shall establish a borough
50 advisory committee when a petition is received by the court for
51 the creation of a borough. The following shall apply to

1 committee members:

2 (1) Members shall be appointed by and shall serve at the
3 pleasure of the court.

4 (2) The committee shall consist of the following:

5 (i) Two residents of the proposed borough.

6 (ii) Two residents from each of the existing
7 [townships] municipalities recommended by the respective
8 governing body of the [township] municipality who are not
9 residing within the proposed borough.

10 (iii) One resident of the county not residing in any
11 area under subparagraphs (i) and (ii) who shall serve as
12 the chair of the committee.

13 (3) Members shall serve without salary. The court may
14 entitle each member to reimbursement for the member's actual
15 and necessary expenses incurred in the performance of the
16 member's official duties.

17 (4) Members may consult with the director of the county
18 planning commission who may advise the committee.

19 (b) Duties.--The committee shall, within 60 days of its
20 creation, advise the court in relation to the establishment of
21 the proposed borough. The committee shall render expert advice
22 and findings of fact relating to the desirability of an
23 incorporation, including advice as to:

24 (1) The proposed borough's ability to obtain or provide
25 adequate and reasonable community support services such as
26 police protection, fire protection and other appropriate
27 community facility services.

28 (2) Whether the proposed borough constitutes a
29 harmonious whole with common interests and needs that can
30 best be served by a borough government. In examining this
31 factor, the committee shall consider whether the proposed
32 borough represents a distinct community with features
33 different from those of the existing [township] municipality.

34 (3) The existing and potential commercial, residential
35 and industrial development of the proposed borough.

36 (4) Whether the proposed borough would provide for land
37 use regulations to meet the legitimate needs for all
38 categories of residents or whether the plan is exclusionary
39 or would result in economic segregation.

40 (5) The financial or tax effect on the proposed borough
41 and existing [township] municipality.

42 § 213. Adjustment of indebtedness.

43 (a) Property.--The following shall apply:

44 (1) After the election of a council under section 211
45 (relating to temporary preservation, organization and
46 election of officers) when a borough is newly incorporated,
47 the council and the governing body of the [township]
48 municipality from which the borough was created shall make an
49 equitable adjustment and apportionment of all the public real
50 and personal property owned by the [township] municipality at
51 the time of the incorporation of the borough.

1 (2) Except as provided under paragraph (3), the property
2 under paragraph (1) shall include funds and indebtedness.

3 (3) If adjusting property and indebtedness under
4 paragraph (1), streets, sewers and utilities may not be
5 considered except to the extent that current and unpaid
6 indebtedness was incurred for the construction and
7 improvement of the property.

8 (b) Proportion.--In making the adjustment and apportionment
9 under subsection (a), the following shall apply:

10 (1) The borough shall be entitled to a division of the
11 property and indebtedness in the same proportion that the
12 assessed valuation of the taxable real estate included within
13 the territorial limits of the newly incorporated borough
14 bears to the assessed valuation of the taxable real estate in
15 the entire [township] municipality immediately prior to the
16 incorporation of the borough. The [township] municipality
17 shall be entitled to the remainder of the property and
18 indebtedness.

19 (2) If indebtedness was incurred by the [township]
20 municipality for an improvement located wholly within the
21 territorial limits of the newly incorporated borough, the
22 indebtedness shall be assumed by the borough.

23 (3) If only part of the improvement is located within
24 the newly incorporated borough, the part of the indebtedness
25 representing the part of the improvement located within the
26 borough shall be assumed by the borough, and the adjustment
27 and apportionment of any remaining debt shall be retained by
28 the [township] municipality.

29 (c) Form.--The adjustment and apportionment made under this
30 section must meet all of the following:

31 (1) Be in writing and duly executed and acknowledged by
32 the secretary or clerk of the [township] municipality and the
33 secretary of the borough.

34 (2) Be filed in the office of the clerk of the court of
35 common pleas of the county.

36 (3) Be filed as a copy with the Department of Community
37 and Economic Development.

38 Section 3. Section 214 of Title 8, amended June 5, 2020
39 (P.L.211, No.28), is amended to read:

40 § 214. Judicial adjustment.

41 (a) Petition.--If the governing bodies of the [township]
42 municipality and the borough cannot make an amicable adjustment
43 and apportionment of the property and indebtedness within six
44 months after the government of the newly incorporated borough is
45 established, the supervisors or commissioners of the [township]
46 municipality or the council of the borough may present a
47 petition to the court of common pleas requesting a judicial
48 adjustment.

49 (b) Appointment.--After receiving a petition under
50 subsection (a), the court shall appoint three disinterested
51 commissioners who meet all of the following requirements:

1 (1) Are residents and taxpayers of the county.
2 (2) Are not residents of or own real estate in the
3 [township] municipality or borough.
4 (c) Report.--The individuals appointed under subsection (b)
5 shall hold a hearing and make a report to the court containing
6 an adjustment and apportionment of all the property and the
7 indebtedness between the [township] municipality and the
8 borough. Notice shall be made to the [township] municipality and
9 borough as provided by the court. The report shall state the
10 amount due and payable from the borough or the [township]
11 municipality to the other entity and the amount of indebtedness
12 that shall be assumed by the borough or the [township]
13 municipality.

14 Section 4. Sections 215, 217, 218, 219, 704(a) and (b),
15 801(a), 1104(c), 1122(a) and 1202(8) of Title 8 are amended to
16 read:

17 § 215. Judicial adjustment award proceedings.

18 (a) Notice.--The commissioners shall give the [township]
19 municipality and the borough at least five days' notice of the
20 filing of the report under section 214(c) (relating to judicial
21 adjustment).

22 (b) Exceptions.--Unless exceptions are filed to the report
23 within 30 days after the date of the filing, the report shall be
24 confirmed by the court.

25 (c) Effect.--The following shall apply:

26 (1) Any sum awarded by the report to the [township]
27 municipality or borough shall be a legal and valid claim in
28 its favor against the borough or [township] municipality
29 charged with the sum.

30 (2) Any real or personal property given to the
31 [township] municipality or borough shall become its
32 respective property.

33 (3) Any claim or indebtedness charged against the
34 borough or [township] municipality may be collected from the
35 borough or the [township] municipality.

36 § 217. Compensation, expenses and costs.

37 The commissioners under section 214(b) (relating to judicial
38 adjustment) shall receive compensation and expenses for their
39 services as provided by the court. The costs of the proceedings,
40 including the compensation and expenses of the commissioners,
41 shall be apportioned by the court between the borough and
42 [township] municipality.

43 § 218. Territory located in multiple counties.

44 If territory included within the limits of a newly
45 incorporated borough is located in at least two counties, the
46 court of common pleas of the county where the larger part of the
47 territory of the borough is located shall have exclusive
48 jurisdiction over the proceedings to adjust and apportion the
49 indebtedness between the borough and [township] municipality.

50 § 219. Bond issues and taxation.

51 In any proceeding to adjust and apportion indebtedness, the

1 [township] municipality or the borough shall have power to issue
2 and deliver to the borough or [township] municipality interest-
3 bearing bonds in liquidation of the indebtedness ascertained, to
4 be its proportionate share payable, if the bonds are acceptable
5 to the borough or [township] municipality or [townships]
6 municipalities entitled to receive the bonds. The court may make
7 necessary orders for the collection and payment by the
8 [township] municipality or [townships] municipalities or borough
9 of the amount needed to pay its share of any indebtedness
10 apportioned to it by special taxes to be collected in one year
11 or by annual installments.

12 Amend Bill, page 5, line 24, by striking out "2" and
13 inserting

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15 Amend Bill, page 6, line 9, by striking out "3" and inserting
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17 Amend Bill, page 9, line 23, by striking out "4" and
18 inserting

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20 Amend Bill, page 10, line 18, by striking out "5" and
21 inserting

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